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I hereby certify under 37 C.F.R. § 1.8(a) that this correspondence is being deposited with the United States Postal Service as **first class mail** with sufficient postage on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Susan M. Barry

Printed name of person mailing correspondence

Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Richard F Selden *et al.*

Art Unit: 1636

Serial No.: 09/328,130

Examiner: R. Schwartzman

Filed: June 8, 1999

Title: *In Vivo* Production and Delivery of Erythropoietin or Insulinotropin for Gene Therapy

Assistant Commissioner for Patents  
Washington, D.C. 20231

TERMINAL DISCLAIMER UNDER 37 C.F.R. §§ 1.321 and 3.73(b)

Pursuant to 37 C.F.R. § 1.321(b), Transkaryotic Therapies, Inc., the assignee of the entire right, title, and interest in the above-captioned patent application, seeks to disclaim the terminal portion of the term of the patent to be granted on the application. This terminal disclaimer is binding on the grantee and its successors or assigns.

Pursuant to 37 C.F.R. § 1.321(b)(1), this terminal disclaimer is signed by an attorney of record.

Pursuant to 37 C.F.R. § 1.321(b)(2), Transkaryotic Therapies, Inc. hereby waives and disclaims any terminal portion of the term of the entire patent to be granted upon the

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above-captioned application that may be subsequent to any of the expiration dates of U.S. Patent Numbers 5,994,127; 6,048,524; 6,048,729; 6,054,288; and 6,063,630.

Transkaryotic Therapies, Inc. does not disclaim any terminal part of any patent granted on the above-captioned application prior to any of the expiration dates of the full statutory terms of U.S. Patent Numbers 5,994,127; 6,048,524; 6,048,729; 6,054,288; and 6,063,630 in the event that they later expire for failure to pay a maintenance fee, are held unenforceable, are found invalid, are statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, have all claims canceled by a reexamination certificate, or are otherwise terminated prior to expiration of their statutory term, except for the separation of legal title as stated above.

Pursuant to 37 C.F.R. §§ 1.321(b)(3) and 3.73(b), the undersigned attorney of record certifies that Transkaryotic Therapies, Inc., a corporation, is the assignee of the entire right, title, and interest in the above-captioned application by virtue of an assignment from the inventors. A copy of the assignment is enclosed.

The undersigned attorney of record has reviewed all the documents in the chain of title of the above-captioned application and, to the best of his knowledge and belief, title is in Transkaryotic Therapies, Inc.

Pursuant to 37 C.F.R. § 1.321(c)(3), this terminal disclaimer is being filed to obviate a double patenting rejection in the above-captioned patent application. Any patent granted on the application or any resulting patent that is subject to reexamination

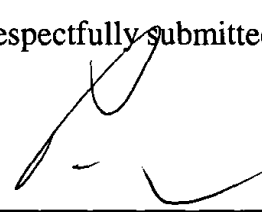
proceedings shall be enforceable only for and during such period that said patent is commonly owned with the patents that formed the basis for the rejection.

Pursuant to 37 C.F.R. § 1.321(b)(4) please charge \$55 for the fee set forth in 37 C.F.R. § 1.20(d), as well as apply any additional charges or any credits, to Deposit Account Number 03-2095.

Respectfully submitted,

Date:

May 16, 2001

  
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Paul T. Clark  
Reg. No. 30,162

Clark & Elbing LLP  
176 Federal Street  
Boston, MA 02110  
Telephone: 617-428-0200  
Facsimile: 617-428-7045



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PATENT TRADEMARK OFFICE

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Docket No. TKT91-01A

Joint

ASSIGNMENT

WHEREAS, we, Richard F Selden, Douglas Treco and Michael W. Heartlein have invented a certain improvement in IN VIVO PRODUCTION AND DELIVERY OF ERYTHROPOIETIN OR INSULINOTROPIN FOR GENE THERAPY described in an application for Letters Patent of the United States, Serial No. 07/911,533, filed July 10, 1992.

WHEREAS, Transkaryotic Therapies, Inc. (hereinafter "ASSIGNEE"), a corporation organized and existing under the laws of the State of Delaware, and having a usual place of business at 195 Albany Street, Cambridge, MA 02139 desires to acquire an interest therein in accordance with agreements duly entered into with us;

NOW, THEREFORE, to all whom it may concern be it known that for and in consideration of the said agreements and of other good and valuable consideration, the receipt of which is hereby acknowledged, we have sold, assigned and transferred and by these presents do hereby sell, assign and transfer unto said ASSIGNEE, its successors, assigns and legal representatives, the entire right, title and interest in and throughout the United States of America, its territories and all foreign countries, in and to the said invention as described in said application, together with the entire right, title and interest in and to the said application and such Letters Patent as may issue thereon; said invention, application and Letters Patent to be held and enjoyed by said ASSIGNEE for its own use and behalf and for its successors, assigns and legal representatives, to the full end of the term for which said Letters Patent may be granted as fully and entirely as the same would have been held by us had this assignment and sale not been made; we hereby convey all rights arising under or pursuant to any and all international agreements, treaties or laws relating to the protection of industrial property by filing any such applications for Letters Patent. We hereby acknowledge that this assignment, being of the entire right, title and interest in and to said invention, carries with it the right in ASSIGNEE to apply for and obtain from competent authorities in all countries of the world any and all Letters Patent by attorneys and agents of ASSIGNEE selection and the right to procure the grant of all such Letters Patent to ASSIGNEE for its own name as assignee of the entire right, title and interest therein;

AND, we hereby further agree for ourselves and our executors and administrators to execute upon request any other lawful documents and likewise to perform any other lawful acts which may be deemed necessary to secure fully the aforesaid invention to

said ASSIGNEE, its successors, assigns and legal representatives, but at its or their expense and charges, including the execution of applications for patents in foreign countries, and the execution of substitution, reissue, divisional or continuation applications and preliminary or other statements and the giving of testimony in any interference or other proceeding in which said invention or any application or patent directed thereto may be involved;

AND, we do hereby authorize and request the Commissioner of Patents of the United States to issue such Letters Patent as shall be granted upon said application or applications based thereon to said ASSIGNEE, its successors, assigns, and legal representatives;

IN TESTIMONY WHEREOF, we have hereunto set our hands and affixed our seals the date set forth below.


Inventor: Richard F Selden  
Richard F Selden

State/Commonwealth  
of Massachusetts  
County of Middlesex

Then personally appeared before me the above-named  
Richard F. Selden and acknowledged that he  
executed the foregoing instrument as his free act and  
deed this 25th day of August, 1992.

(SEAL)

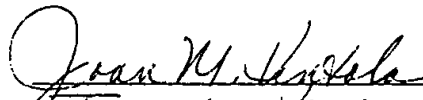
Joan M. Ventola Notary Public  
JOAN M. VENTOLA (print name)  
My Commission expires 10 / 04 / 96

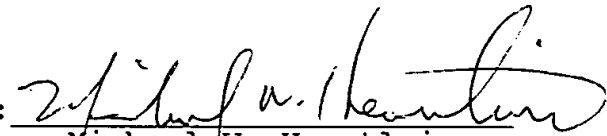
Inventor:   
Douglas Treco

State/Commonwealth  
of Massachusetts  
County of Middlesex

Then personally appeared before me the above-named  
Douglas Treco and acknowledged that he  
executed the foregoing instrument as his free act and  
deed this 25th day of August, 1982.

(SEAL)

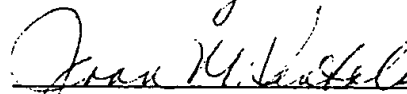
 Notary Public  
Joan M. Ventola (print name)  
My Commission expires 10/04/96

Inventor:   
Michael W. Heartlein

State/Commonwealth  
of Massachusetts  
County of Middlesex

Then personally appeared before me the above-named  
Michael W. Heartlein and acknowledged that he  
executed the foregoing instrument as his free act and  
deed this 25th day of August, 1982.

(SEAL)

 Notary Public  
Joan M. Ventola (print name)  
My Commission expires 10/4/96